

1 William L. Hames, WSBA #12193
2 Hames, Anderson, Whitlow & O'Leary, P.S.
3 601 W. Kennewick Avenue
4 P.O. BOX 5498
5 Kennewick, WA 99336-0498
6 (509) 586-7797 / Fax (509) 586-3674
7 BillH@hawlaw.com

13 UNITED STATES BANKRUPTCY COURT
14 EASTERN DISTRICT OF WASHINGTON

16 In re: } Case No. 18-03197-FPC11
17 GIGA WATT INC, } AMENDED STIPULATED MOTION TO
18 Debtor. } MODIFY THE AUTOMATIC STAY AND
19 NOTICE THEREOF

20 COME NOW the Chapter 11 Trustee (the "Trustee"), Mark Waldron, by and
21 through his attorney Pamela Egan, and the Port of Douglas County (the "Port"), by and
22 through its attorney William L. Hames, and hereby agree that the automatic stay may
23 be modified to allow the Port to expend the remainder of the Port's surety deposit that
24 Giga Watt, Inc. (the "Debtor") provided to the Port with respect to the land (the
25 "Premises") that Debtor leased from the Port pursuant to that certain *Land Lease for*

AMENDED STIPULATED MOTION TO
MODIFY THE STAY - 1

HAMES, ANDERSON, WHITLOW & O'LEARY, P.S.
601 W. KENNEWICK AVENUE
P.O. BOX 5498
KENNEWICK, WA 99336-0498
(509) 586-7797 / Fax (509) 586-3674

1 *Portion of Pangborn Airport Business Park East Wenatchee, Washington*, dated March
2 9, 2017 as amended by that certain *Addendum to Lease Agreement Pangborn Airport*
3 *Business Park East Wenatchee, Washington*, dated August 15, 2017, of which the Port
4 estimates there is approximately \$81,000.00 remaining, to restore the land to its pre-
5 lease status, to the extent possible, so the Port may market the real estate because the
6 bankruptcy estate did not assume the Port's lease. The Trustee and the Port further
7 stipulate that FRBP 4001 be waived so that the Order Modifying the Automatic stay will
8 be effective upon entry of the order.

9 The Port and the Trustee have now stipulated that the automatic stay be
10 modified so that the Port may expend surety funds, if any remain, on any other cleanup
11 of the Premises or removal of Debtor's property left on the Port's real estate, so long as
12 such property is not disposed of without the Trustee's consent. The stipulation is based
13 upon the following: Pursuant to a prior stipulation between the Trustee and the Port,
14 ECF 251, a contractor is on site filling the hole left by Debtor and removing personal
15 property left by Debtor located on Lots 8 and 9, which are adjacent to the Premises.

16 The parties now wish to stipulate to the clean up of the Premises. On the
17 Premises, there are berms of dirt left by Debtor from Debtor's excavation of the Port's
18 real estate to install underground conduits. There is also debris. The Debtor also
19 installed a concrete foundation and grounding matt which the Port wishes to remove.
20 The stipulation that is the subject of this Motion intends to allow the Port to approve a
21 change order from the contractor to remediate the Premises and return the Port's
22 property to its pre-lease status. The contractor's bid is \$85,000.00 (the "Bid"), and the
23 engineer's estimate is \$7,000.00 for a total of \$92,000.00, which Bid and estimate
24 exceed the \$81,000.00 of estimated remaining surety funds. The Bid and estimate are
25 attached to the Declaration of Lisa Parks filed herewith.

AMENDED STIPULATED MOTION TO
MODIFY THE STAY - 2

HAMES, ANDERSON, WHITLOW & O'LEARY, P.S.
601 W. KENNEWICK AVENUE
P.O. BOX 5498
KENNEWICK, WA 99336-0498
(509) 586-7797 / Fax (509) 586-3674

1 The Trustee agrees to the work described in the Bid, with the exception that the
2 Trustee does not agree to the disposal of property of the estate without the Trustee's
3 consent. Furthermore, the Bid (as well as the engineer's estimate) incorrectly refer to
4 Lots 8 and 9, which are not the subject of this Motion. Instead, the Bid intends to refer
5 to work to be performed on the Premises. (Lots 8 and 9 are adjacent to the Premises.)

6 The \$92,000 figure set forth in the Bid and estimate is an estimate. The final
7 cost may be more. Also attached to the Declaration of Lisa Parks is an accounting of
8 the surety deposit funds expended thus far authorized by the prior stipulation. The
9 Trustee does not believe that the accounting is accurate or complete. Nonetheless, the
10 Trustee is willing to allow the Port to offset the cost of the work described in the Bid
11 with the exception that the Trustee is not agreeing o the disposal of the "site station
12 equipment" described in the Bid.

13 This motion is based on 11 U.S.C. § 362, LBR 4001 and the Declaration of Lisa
14 Parks

15 **NOTICE**

16 **IF YOU OBJECT TO THE RELIEF REQUESTED ABOVE, YOU MUST FILE A**
17 **WRITTEN OBJECTION WITH THE CLERK OF THE ABOVE-ENTITLED COURT**
18 **AND REQUEST A HEARING AT PO BOX 2164, W. 904 RIVERSIDE, ROOM 304,**
19 **SPOKANE, WASHINGTON 99210, ON OR BEFORE 8 DAYS (5 DAYS PLUS 3**
20 **DAYS FOR MAILING) FROM THE DATE OF THIS NOTICE AND SERVE A COPY**
21 **ON THE UNDERSIGNED AT 601 W. KENNEWICK AVENUE, PO. BOX 5498,**
22 **KENNEWICK, WASHINGTON 99336; MARK D. WALDRON, CHAPTER 11**
23 **TRUSTEE, 6711 REGENTS BLVD. W., SUITE B, TACOMA, WA 98466-5421; AND**
24 **UPON THE OFFICE OF THE UNITED STATES TRUSTEE, 920 W. RIVERSIDE, STE.**
25 **593, SPOKANE, WA 99201.**

AMENDED STIPULATED MOTION TO
MODIFY THE STAY - 3

HAMES, ANDERSON, WHITLOW & O'LEARY, P.S.
601 W. KENNEWICK AVENUE
P.O. BOX 5498
KENNEWICK, WA 99336-0498
(509) 586-7797 / Fax (509) 586-3674

SHOULD YOU FAIL TO OBJECT AS SET FORTH ABOVE, PLEASE
FURTHER BE ADVISED THAT THE RELIEF REQUESTED MAY BE GRANTED
WITHOUT FURTHER NOTICE TO YOU.

DATED THIS 30th day of October 2019.

HAMES, ANDERSON, WHITLOW & O'LEARY, P.S.
Attorneys for Creditor Port of Douglas County

BY: /s/ William L. Hames
WILLIAM L. HAMES, WSBA #12193

POTOMAC LAW GROUP PLLC
Attorneys for Ch. 11 Trustee

BY: /s/ Pamela M. Egan with permission
PAMELA M. EGAN, WSBA # 54736

AMENDED STIPULATED MOTION TO
MODIFY THE STAY - 4

HAMES, ANDERSON, WHITLOW & O'LEARY, P.S.
601 W. KENNEWICK AVENUE
P.O. BOX 5498
KENNEWICK, WA 99336-0498
(509) 586-7797 / Fax (509) 586-3674